

To: Flanagan, Sarah[Flanagan.Sarah@epa.gov]
Cc: Hyatt, Jr., William[william.hyatt@klgates.com]
From: Lamparello, Dawn Monsen
Sent: Mon 2/29/2016 7:45:49 PM
Subject: FW: Municipality notice-letter inquiry

Sarah,

We received the below excerpt of an e-mail to the national Superfund program managers regarding the issue of notice letters to municipalities. Can you please advise how Region 2 intends to comply with the policy with respect to the LPRSA?

Thanks,
Dawn

From: Patterson, Kenneth [<mailto:Patterson.Kenneth@epa.gov>]
Sent: Friday, February 12, 2016 10:28 AM
To: Rothenstein, Cliff L.
Subject: Municipality notice-letter inquiry

Dear Cliff:

As I indicated by phone just now, my office director, Cyndy Mackey, distributed a February 9, 2016, email to the national Superfund program managers in our Regions on the issue of notice letters to municipalities. It was distributed informally as an email, as opposed to a guidance or other policy document, as it doesn't establish new policy. I have excerpted the substantive part below, with only minor changes that don't affect said substance:

As you know, several EPA policies provide guidance on the circumstances in which it is appropriate to request involvement from local governments at Superfund sites, and options for that involvement that take into consideration the many unique circumstances associated with those entities.

These policies make it clear that EPA's policy is to treat local governments the same as other PRPs at Superfund sites, including sediment sites. This means that case teams should approach the liability of local governments the same as other PRPs at all types of Superfund sites, including sediment sites, and should employ the same internal analysis for the level of evidence of liability as for other categories of PRPs identified at sediment sites, whether it be as an owner or operator of a facility, or as a generator or transporter of hazardous substances. The case team should employ the same standards for assessing liability (and defenses thereto) and should send notice letters to local governments, to the extent supported by the facts and law. The case team should also evaluate any factors that might provide a basis for exemption from liability.

Involving local governments early in the process, with active participation in the discussions involving the site, as well as the respective roles that parties may play in the clean-up process, benefits EPA, the local governments, and the other PRPs, and can help make the overall process more efficient.

With best regards,

Ken

Kenneth W. Patterson, Director

Regional Support Division

Office of Site Remediation Enforcement

Office of Enforcement and Compliance Assurance

U.S. EPA

202-564-5134

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